

**Remarks/Arguments**

Applicant thanks the Examiner for the Office Action mailed August 30, 2007. The status of the application is as follows:

- Claims 1-27 are pending. Claims 1, 10, 17-19, 21-24, 26 and 27 have been amended.
- Claims 17 and 23-34 are rejected under 35 U.S.C. §112
- Claims 19-20 are rejected under 35 U.S.C. §102(b) as being anticipated by Furst et al (US 6,152,590).
- Claims 1-3, 5-10, 12-16 and 21-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt (US 2,566,280) in view of Lebens et al (US 6,095,661).
- Claims 1, 3-4, 10-11 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bell (US 2,138,723) in view of Lebens et al (US 6,095,661).
- Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al and Fields (US 4,797,793).
- Claims 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al and further in view of Fields.
- Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al and Fields and further in view of Nygard (US 1,986,281).
- Claim 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al and further in view of Nygard.
- Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Furst in view of Whitehead (US 4,740,066).

The rejections are discussed below.

**The Rejection of Claims 17 and 23-34 under 35 U.S.C. §112**

Claims 17 and 23-34 stand rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements.

The Office states that the omitted structural cooperative relationships involve the headband limitation. The amendments to the claims herein cancel this limitation from the subject claims, rendering this rejection moot. As such, this rejection should be withdrawn.

**The Rejection of Claims 19-20 under 35 U.S.C. §102(b)**

Claims 19-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Furst et al. This rejection should be withdrawn because Furst et al. does not teach each and every aspect set forth in subject claims and, thus, does not anticipate claims 19-20.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). MPEP §2131

Independent **claim 19** has been amended to include aspects of claim 27, which depends from claim 19, and is directed towards a lighting device that includes a front housing, having a front and back side, and a rear housing coupled to the back side of the front housing, and the front housing is pivotally connected to the rear housing to allow the front housing and the light emitting diodes to be moved relative to the rear housing. No new matter has been added, and this amendment does not necessitate further search.

The rejection of amended claim 19 should be withdrawn as the Office concedes that Furst et al. does not teach or suggest such claim aspects.

Moreover, Whitehead, which is referenced by the Office in connection to claim 27, does not make up for the conceded deficiency of Furst et al. In particular, the Office asserts that Whitehead discloses a rear view mirror 26 that is pivotally connected to a vehicle 10. However, the subject claim aspects recite a lighting device with a front housing pivotally coupled to a rear housing to allow the front housing and the light emitting diodes thereon to be moved relative to the rear housing. Whitehead does not teach or suggest these claim aspects.

**The Rejection of Claims 1-3, 5-10, 12-16 and 21-22 under 35 U.S.C. §103(a)**

Claims 1-3, 5-10, 12-16 and 21-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al. This rejection should be withdrawn because the combination of Yandt and Lebens et al. does not teach or suggest all the limitations of the subject claims and, therefore, does not establish a *prima facie* case of obvious with respect to claims 1-3, 5-10, 12-16 and 21-22.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, (CCPA 1974). MPEP §2143.03.

Amended independent **claim 1** is directed towards a lighting device that includes, *inter alia*, a first magnifier lens arranged in a light path of a first light emitting diode for focusing a first light beam onto a target area and a second magnifier lens arranged in a light path of a second light emitting diode for focusing a second light beam onto the target area such that the first light beam and the second light beam substantially overlap on the target area. The combination of Yandt and Lebens et al. does not teach or suggest such claim aspects.

The Office asserts that the light beams form the light elements 32 and 34 of Yandt teach the above claim aspects. However, the only reference to lenses in Yandt is found at column 2, lines 18-23, and this section of Yandt simply states that the cover is formed with a pair of openings adapted to accommodate a pair of reflectors together with corresponding lenses 30. Yandt is silent regarding arranging the lenses 30 to focus light beam emitted by the light elements 32 and 34 onto a target area, let alone so that the emitted light beams substantially overlap on the target area.

The Office shows an illustration in the Office Action in which light beams from the light elements 32 and 34 overlap on a target area. First, this is not disclosed in Yandt. As noted above, Yandt is silent regarding focusing the light beams from the light elements 32 and 34 on a target area. Thus, it appears the Office is relying on improper

hindsight to find this claim aspect in Yandt. (See *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964) (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into the use of hindsight”). Furthermore, in the illustration provided in the Office Action, the lights beams do not substantially overlap on the target area.

In light of the above, the rejection of amended claim 1 should be withdrawn.

**Claim 6**, which depends from claim 1, recites the first and second magnifier lenses each comprise a plano convex magnifier lens. The Office asserts that the lenses 30 of Yandt teach plano convex magnifiers. However, Yandt does not disclose that the lenses 30 are plano convex magnifiers; Yandt is silent regarding the type of the lenses 30. Moreover, in Fig. 1 the bottom halves of the lenses 30 are not visible. Thus, it cannot be ascertained from Fig. 1 whether the lenses 30 are convex, plano convex (having one flat side and one convex side), convex meniscus (having one convex side and one concave side), or other type of lens. Accordingly, this rejection should be withdrawn.

**Claim 5**, which depends from claim 1, recites that the first and second magnifier lenses each comprise a convex magnifier lens. The Office does not address this limitation in the Office Action. As noted above, the Office addresses (although incorrectly) plano convex magnifier lenses as recited in claim 6. It is noted that under the doctrine of claim differentiation, claim 5 cannot be limited to plano convex magnifier lens since claim 6 is directed to plano convex magnifier lenses and, thus, the rejection of claim 6 cannot additionally apply to claim 5. Therefore, this rejection should be withdrawn.

Amended **claim 21**, which depends from claim 1, recites that the first and second magnifier lenses are tilted, with respect to the first and second light emitting diodes, towards the target area, thereby furthering the substantial overlap of the first and second light beams. Neither Yandt nor Lebens et al. nor the combination thereof teach or suggest such aspects. Accordingly, this rejection should be withdrawn.

**Claims 2, 3 and 7-9** depend from claim 1 and are allowable at least be virtue of their dependencies.

**Claim 10** also recites that the first and second magnifiers lenses are tilted, with respect to the first and second light emitting diodes, towards the target area, and the first and second light beams substantially overlap the target area. Thus, for the reasons discussed *supra* in connection with claim 21, this rejection should be withdrawn.

**Claims 13 and 14**, which depend from claim 10, recite limitations similar to those in claims 5 and 6. As such, the above discussion regarding claims 5 and 6 applies *mutatis mutandis* to claims 13 and 14, and this rejection should be withdrawn.

**Claim 22**, which depends from claim 10, recites limitations similar to those in claim 21. As such, the above discussion regarding claim 21 applies *mutatis mutandis* to claim 22, and this rejection should be withdrawn.

**Claims 12, 15, and 16** depend from claim 10 and are allowable at least by virtue of their dependencies.

**The Rejection of Claims 1, 3, 4, 10, 11 and 18 under 35 U.S.C. §103(a)**

Claims 1, 3, 4, 10, 11 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bell in view of Lebens et al. This rejection should be withdrawn because the combination of Bell and Lebens et al. does not teach or suggest all the limitations of the subject claims.

As discussed above, amended independent **claim 1** recites, *inter alia*, a first magnifier lens arranged in a light path of a first light emitting diode for focusing a first light beam onto a target area and a second magnifier lens arranged in a light path of a second light emitting diode for focusing a second light beam onto the target area such that the first light beam and the second light beam substantially overlap on the target area. The combination of Bell and Lebens et al. does not teach or suggest such claim aspects.

The Office asserts that the light beams form the light elements 38 and 40 of Bell teach the above claim aspects. However, the only reference to lenses in Bell is found at page 1, second column, lines 16-18, and this section of Bell simply states that a removable cap positions lenses 44 and 46 relative to their respective reflectors. Bell is silent regarding arranging the lenses 44 and 46 to focus light beam emitted by the light

elements 38 and 40 onto a target area, let alone so that the emitted light beams substantially overlap the target area. As such, this rejection should be withdrawn.

Amended **claim 18**, which depends from claim 1, recites that the lighting device only has three light emitting diodes, and the third light emitting diode is located between the first and the second light emitting diodes. The combination of Bell and Lebens et al. does not teach or suggest such claim aspects. Neither reference teaches only three light emitting diodes in which the third light emitting diode is located between the other two diodes. Therefore, the rejection of claim 18 should be withdrawn.

**Claims 3 and 4** depend from claim 1 and are allowable at least by virtue of their dependencies.

**Claim 10** recites that the first and second magnifiers are tilted, with respect to the first and second light emitting diodes, towards the target area, and the first and second light beams substantially overlap the target area. The combination of Bell and Lebens et al. does not contemplate such claim aspects.

**Claim 11** depends from claim 10 and is allowable at least by virtue of this dependency.

**The Rejection of Claim 17 under 35 U.S.C. §103(a)**

Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al. and Fields. This rejection should be withdrawn because the combination of Yandt, Lebens et al. and Fields does not teach or suggest all the limitations of amended claim 17.

More particularly, independent **claim 17** has been amended to recite that the light device includes a third light emitting diode that is located between the first and the second light emitting diodes, and a light path of the third lighting emitting diode extends substantially between the first and second magnifier lenses. The combination of Yandt, Lebens et al. and Fields is silent regarding these claim aspects. Accordingly, this rejection should be withdrawn.

**The Rejection of Claims 23-24 under 35 U.S.C. §103(a)**

Claims 23-24 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt in view of Lebens et al and further in view of Fields. This rejection should be withdrawn because the combination of Yandt, Lebens et al. and Fields does not teach or suggest all the limitations of amended claims 23-24.

More particularly, **claim 23**, which depends from claim 1, has been amended to recite that the first and second light beams each have a field of view of about forty degrees. The combination of Yandt, Lebens et al. and Fields does not teach or suggest such aspects. Therefore, the rejection of claim 23 should be withdrawn.

**Claim 24**, which depends from claim 10, recites limitations similar to those in claim 23. As such, the above discussion regarding claim 23 applies *mutatis mutandis* to claim 24, and this rejection should be withdrawn.

**The Rejection of Claim 25 under 35 U.S.C. §103(a)**

Claim 25 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt, Lebens et al and Fields, and further in view of Nygard. **Claim 25** depends from claim 17 and is allowable at least by virtue of this dependency.

**The Rejection of Claim 26 under 35 U.S.C. §103(a)**

Claim 26 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yandt and Lebens et al and further in view of Nygard. This rejection should be withdrawn because the combination of Yandt, Lebens et al. and Nygard does not teach or suggest all the limitations of amended claim 26.

More particularly, **claim 26**, which depends from claim 17, has been amended to recite that the third light emitting diode provides a flood light. The combination of Yandt, Lebens et al. and Nygard does not teach or suggest such aspects. Therefore, the rejection of claim 26 should be withdrawn.

Application No. 10/518,219  
Amdt. Dated: November 30, 2007  
Reply to Office Action Dated: August 30, 2007

**The Rejection of Claim 27 under 35 U.S.C. §103(a)**

Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Furst in view of Whitehead. This rejection should be withdrawn because the amendments to claim 27 render this rejection moot.



Application No. 10/518,219  
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**Conclusion**

In view of the foregoing, it is submitted that the pending claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,



Anthony M. Del Zoppo, III Reg. No. 51,606  
Driggs, Hogg & Fry Co., L.P.A.  
38500 Chardon Road  
Willoughby Hills, Ohio 44094  
Phone: 1.440.391.5100  
Fax: 1.440.391.5101

**Please direct further correspondence to:**

Gregory J. Adams, Esq.  
Eveready Battery Company  
25225 Detroit Road  
Westlake, Ohio 44145  
Phone: (440) 835-8148